

**VIRGINIA BOARD OF NURSING
MINUTES
MARCH 23, 2004**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 8:40 A.M. on March 23, 2004 in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Linda Ault, R.N., M.S.N., President

**BOARD MEMBERS
PRESENT:** Janet B. Younger, R.N., P.N.P., Ph.D., Vice President
Denise Oppenhagen, R.N., B.S.N., Secretary
Marion A. Alderman, Citizen Member
Lynne M. Cooper, Citizen Member
Louise D. Hartz, Citizen Member
Gregory J. Huber, R.N., M.S.N.
Carol E. King, L.P.N., M.S.
Louisa Lief, R.N., M.S.
Judith E. Piersall, R.N., B.S.N.
Brenda L. Spady, L.P.N.
JoAnn Tillett, R.N.

**BOARD MEMBERS
ABSENT:** Julia C. Semple, L.P.N.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jessica Ressler, R.N., Nursing Education Consultant
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Ann S. Hardy, R.N., M.S.N., Discipline Case Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT: Robert Nebiker, Director, Department of Health Professions
Elaine Yeatts, Regulatory Analyst, Department of Health Professions
Howard M. Casway, Senior Assistant Attorney General
Kathy Tagnesi, Vice President of Nursing Winchester Medical Center
Janet Palutke, Director of Clinical Support Winchester Medical Center

**ESTABLISHMENT OF
A QUORUM:** With twelve members of the Board present, a quorum was established.

ANNOUNCEMENTS: Virginia Partnership Annual Summit will be held May 14 - 15, 2004 in Williamsburg.

Governors Advisory Council on the Future of Nursing in Virginia will meet April 20, 2004 at 9:00 a.m.

Committee of the Joint Boards of Nursing and Medicine will meet April 21, 2004.

Dorcas Lett was hired as a full-time Administrative Assistant for the Board of Nursing effective March 22, 2004. Ms. Lett will be assigned to the discipline unit.

E. Mary Cargill being honored by local chapter of Chi Eta Phi.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board adopted a motion by Ms. Hartz to accept the consent agenda which includes:

Minutes:

January, 27, 2004 – Dr. Younger

January 28, 2004 – Dr. Younger

January 29, 2004 – Ms. Ault

February 11, 2004 – Telephone Conference Call

February 17, 2004 – Telephone Conference Call

Reports:

Finance Report

Open Cases Report

Case Summary Report

Case Standard Report

License Count Report

Examinations:

NNAAP

NCLEX

Probation Completed

Successful Completion of Health Practitioners Intervention Program

DIALOGUE WITH
MR. NEBIKER:

- Board of Nursing caseload has increased 20%; increase is partially due to increased reporting as a result of HB 1441. It is also noted that there is a high degree of validity in reporting.
- HB 577 has been signed, which will allow for Boards to delegate certain fact finding functions to agency subordinates. Boards will be asked to develop policy and regulations related to delegation.
- Approximately 300 Confidential Consent Agreements are in process for the Department of Health Professions.
- 30% of licensure renewals are being processed on-line.

LEGISLATIVE UPDATE: Ms. Yeatts reviewed information regarding three bills that have an enactment clause that will require regulations be promulgated within 280 days. They are HB 577 – delegation of certain disciplinary functions; HB 633 – implementation of nurse licensure compact; HB 855 – Signing of certain documents by nurse practitioners.

REGULATIONS:

Adoption of Final Regulations for fee increase:

Ms. Lief moved to adopt final regulations. The motion was seconded and carried unanimously.

Adoption of Proposed Regulations Governing Nurse Practitioners 18 VAC 90-30:

Ms. Hartz moved to adopt the proposed regulations. The motion was seconded and carried unanimously.

Ms. Yeatts informed the Board these will be presented to the Board of Medicine April 22, 2004.

Adoption of Final Regulations Governing Certified Nurse Aides 18 VAC 90-25:

Ms. Hartz moved to define the term “client” and use consistently throughout the regulation.

The motion was seconded and carried unanimously.

Ms. Piersall moved to adopt final regulations as amended. The motion was seconded and carried unanimously.

Adoption of Final Regulations Governing the Practice of Nursing 18 VAC 90-20:

18 VAC 90-20-90 4. Baccalaureate Programs.

Ms. Hartz moved to adopt the proposed as final regulations.

The motion was seconded and carried unanimously.

Ms. Hartz moved the following as the Board’s response to public comments on Section 90-20-90 5b (Associate Degree and Diploma Programs):

All schools in opposition currently meet standards of revised regulations and the standards proposed in regulation is consistent with the standards for national accreditation. Proposed regulations provide for exceptions without any prior Board approval and includes a “grandfathering option” prior to effective date of regulations.

The motion was seconded and carried unanimously.

Dr. Younger moved to adopt Section 18 VAC 90-20-90 5 as final regulations.

The motion was seconded and carried unanimously.

18 VAC 90-20-90 6a (Practical Nursing Programs)

Dr. Younger moved to adopt the Board response to public comment. The Board believes that the education of a licensed practical nurse must be similar in quality to that of a registered nurse since their scope is similar and overlapping. A basic degree in nursing should be a minimum standard for someone providing instruction. The Board noted the availability of the grandfathering option.

The motion was seconded and carried unanimously.

Dr. Younger moved to adopt 18 VAC 90-20-90 6 as final regulations.

The motion was seconded and carried. Seven board members voted in favor and Ms. Ault, Ms. Cooper, Ms. Spady, Ms. Piersall and Ms. Alderman voted no.

18 VAC 90-20-35 (Identification)

Dr. Younger moved to accept the following as Board response to public comment regarding nametags:

Since the petition for rulemaking was filed, the General Assembly passed legislation that prohibits the inclusion of street addresses, box numbers or rural route numbers on the on-line license look up. While an address of record may still be obtained through the Freedom of Information Act, it is no longer possible to access the information via the internet. The Board believes that the identification requirement is in the best interest of patients and represents little if any risks to licensees.

The motion was seconded and carried unanimously.

Ms. Lief moved to adopt 18 VAC 90-20-35 as final regulations.

The motion was seconded and carried unanimously.

18 VAC 90-20-390 Medication Administration Training Programs

Dr. Younger moved the following as Board response to public comment:

The amendment to section 390 adds a specific 24 hour requirement for a medication administration training program. The *Code of Virginia* 54.1-3408 J does not require recertification or periodic retraining, but the Board is authorized to approve the curriculum.

The motion was seconded and carried unanimously.

Ms. Lief moved to adopt as final regulations 18 VAC 90-20-390.

The motion was seconded and carried unanimously.

Ms. Hartz moved to amend 18 VAC 90-20 to include both terms “patient” and “client” in Section 300 on disciplinary provisions.

The motion was seconded and carried unanimously.

Dr. Younger moved to adopt as Final Regulations Governing the Practice of Nursing 18 VAC 90-20 as amended.

The motion was seconded and carried unanimously.

RECESS:

The Board recessed at 10:30 A.M.

RECONVENTION:

The Board reconvened at 10:40 A.M.

OTHER MATTERS:

Certified Nurse Aide Registry Funding:

Mark Monson, Department of Health Professions Deputy Director presented an overview of the history of funding for the nurse aide registry and asked the Board to consider options to resolve the funding issue.

Ms. Oppenhagen moved to promulgate a Notice of Intended Regulatory Action that would include all options including Ms. Yeatts’ suggestion to the Board that the Notice of Intended Regulatory Action also include the fiscal impact of investigating only those cases required by federal mandate.

The motion was seconded and carried unanimously.

Mr. Nebiker left the meeting.

REPORTS:

Health Practitioners Intervention Program:

The report from Ms. Douglas was accepted as distributed.

NCSBN Mid Year Meeting:

Ms. Ault and Ms. Douglas reviewed information discussed at the meeting. Ms. Douglas reviewed the VisaScreen process and how this affects Canadian nurses licensed in Virginia. Ms. Douglas reported that 167 Canadian nurses have been licensed by endorsement in Virginia in the last two years. Approximately 30% of these nurses have taken the NCLEX. Section 343 of the Illegal Reform and Immigration Responsibility Act requires completion of United States VisaScreen.

Committee reports, Commitment to Ongoing Regulatory Excellence (CORE) and information regarding the Nurse License Compact information from the NCSBN meeting were accepted reports.

State Council of Higher Education for Virginia (SCHEV) Condition of Nursing and Nursing Education in the Commonwealth Report:

Accepted as report.

OTHER MATTERS:
CONTINUED:

Request for accommodation for examination:

CLOSED SESSION:

Ms. Oppenhagen moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 11:50 A.M. in the matter of requests for accommodation for examination and for the purpose of consideration and discussion of consent orders.. Additionally, Ms. Oppenhagen moved that Ms. Douglas, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Hardy, Mr. Casway and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 12:05 P.M.

Ms. Oppenhagen moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

John D. Longest:

Ms. Hartz moved to deny the request for accommodation due to failure to provide sufficient documentation to support the disability.

The motion was seconded and carried unanimously.

CASE ADJUDICATION:

Consent Orders:

Beth Ann Roland-Studeney, R.N. 0001-154960

Ms. Tillett moved to accept the Consent Order to accept the voluntary surrender and indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Deborah G. Massie, R.N. 0001-065962

Ms. King moved to accept the Consent Order for the indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Barbara G. Carmack, L.P.N. 0002-014421

Ms. Lief moved to accept the Consent Order for involuntary surrender and indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Susan Beck, R.N. 0001-133866

Ms. Hartz moved to accept the Consent Order for indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Debra Conebach, R.N. 0001-120330

Ms. Lief moved to accept the Consent Order for voluntary surrender for her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Jayne E. Chase, R.N. 0001-138184

Ms. Tillett moved to accept the Consent Order for indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Kathleen Warner, L.P.N. 0002-046534

Ms. Lief moved to accept the Consent Order for indefinite suspension of her license for not less than two years.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Michelle Lee Fancher, R.N. 0001-158843

Ms. Tillett moved to accept the Consent Order for the voluntary surrender and indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Dawn C. Pope, R.N. 0001-129705

Ms. Hartz moved to accept the Consent Order for indefinite suspension and suspend the stay contingent upon compliance with the Health Practitioners Intervention Program.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Nancy H. Flora, L.P.N. 0002-028721

Ms. Lief moved to accept the Consent Order for indefinite suspension of her license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

**EDUCATION
PROGRAMS:**

The Board considered the recommendations of the Education Special Conference Committee from its meeting on March 22, 2004.

Dr. Younger moved that the Board of Nursing adopt the recommendations.
The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 12:15 P.M.

Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director

**VIRGINIA BOARD OF NURSING
MINUTES
March 23, 2004
Panel A**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 1:18 P.M. on March 23, 2004, in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

BOARD MEMBERS
PRESENT:

Linda Ault, R.N., M.S.N., President
Marion A. Alderman, Citizen Member
Lynne M. Cooper, Citizen Member
Carol E. King, L.P.N., M.S.
Louisa Lief, R.N.
Judith E. Piersall, R.N., B.S.N.

STAFF PRESENT:

Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Amy Davis, Administrative Assistant

OTHERS PRESENT:

Allyson Tysinger, Assistant Attorney General

ESTABLISHMENT OF
A QUORUM:

With 6 members of the Board present, a quorum was established.

FORMAL HEARINGS
SCHEDULED:

Arnetta L. Sayles, C.N.A. 1401-003399

Ms. Sayles did not appear.

Patricia Larimer, Senior Adjudication Analyst, represented the Commonwealth.
Ms. Tysinger was legal counsel for the Board. Diane Paarfus, court reporter, recorded the proceedings.

Beverly Beck, Compliance Case Manager, Department of Health Professions was present and testified.

CLOSED MEETING:

Ms. Cooper moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:25 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Sayles. Additionally, Ms. Cooper moved that Ms. Douglas, Ms. Davis and Ms. Tysinger attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:30 P.M.

Ms. Cooper moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Lief moved that Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Larimer.

The motion was seconded and carried unanimously.

Ms. Alderman moved that the Board of Nursing revoke the nurse aide certificate of Ms. Sayles.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS
SCHEDULED:

Debra Mauney, R.N. 0001-152730

Ms. Mauney did not appear.

Julia Messersmith, Senior Adjudication Analyst, represented the Commonwealth. Ms. Tysinger was legal counsel for the Board. Diane Paarfus, court reporter, recorded the proceedings.

CLOSED MEETING:

Ms. Cooper moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:40 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Mauney. Additionally, Ms. Cooper moved that Ms. Douglas, Ms. Davis and Ms. Tysinger attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:50 P.M.

Ms. Cooper moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Piersall moved that Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Messersmith and amended by the Board.

The motion was seconded and carried unanimously.

Ms. Leif moved that the Board of Nursing indefinitely suspend the right to renew Ms. Mauney's registered nurse license for a period of not less than two years.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 1:55 PM.

Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director

Panel B

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 1:15 P.M. on March 23, 2004, in Conference Room 3, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

BOARD MEMBERS PRESENT: Janet B. Younger, R.N., P.N.P., Ph.D., Vice President
Louise Hartz, Citizen Member
Gregory J. Huber, R.N., M.S.N.
Denise Oppenhagen, R.N., Secretary
Brenda L. Spady, L.P.N.
JoAnn Tillett, R.N.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline

OTHERS PRESENT: Howard M. Casway, Assistant Attorney General

ESTABLISHMENT OF A QUORUM: With 6 members of the Board present, a quorum was established.

FORMAL HEARINGS SCHEDULED: **Bonnie Draper Tiller, R.N. 0001-070677**
Ms. Tiller did not appear.
William Garrett, Assistant Attorney General, and Grant Kronenberg, Senior Adjudication Analyst, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Susan Sweet, court reporter, recorded the proceedings.

Kate Johnson-Dickerson, LPN, Pam Twombly, Regional Supervisor, Department of Health Professions; Martha Miller, Senior Investigator, Department of Health Professions; Kim RaBorg, Clinical Director, Hospice of Virginia; and Aletta Braswell-Davis, HCR Manor Care were present and testified.

CLOSED MEETING: Ms. Oppenhagen moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:57 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Tiller. Additionally, Ms. Oppenhagen moved that Ms. Rosen and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:05 P.M.

Ms. Oppenhagen moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such

public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Hartz moved that Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Garrett.

The motion was seconded and carried unanimously.

Ms. Tillett moved that the Board of Nursing revoke the registered nurse license of Ms. Tiller.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS
SCHEDULED:

Mariama N. Cole, C.N.A. 1401-082334

Ms. Cole appeared, represented by Salim Ali, Esquire.

William Garrett, Assistant Attorney General, and John Dickinson, Senior Adjudication Analyst, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Susan Sweet, court reporter, recorded the proceedings.

Frances Kamara, RN, Director of FAKS, Jay Douglas, Executive Director, Board of Nursing were present and testified. Norma Lock, RN testified via telephone.

CLOSED MEETING:

Ms. Oppenhagen moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 3:20 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Cole.

Additionally, Ms. Oppenhagen moved that Ms. Rosen and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 3:40 P.M.

Ms. Oppenhagen moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Tillett moved that Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Garrett.

The motion was seconded and carried unanimously.

Mr. Huber moved that the Board of Nursing close the case and impose no sanction due to insufficient evidence of a violation of the Nurse Practice Act or Board of Nursing regulations

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS
SCHEDULED:

Mabinty Sesay, C.N.A. 1401-094522

Ms. Sesay did not appear. Mr. Baker, Esquire, appeared on Ms. Sesay's behalf. William Garrett, Assistant Attorney General, and John Dickinson, Senior Adjudication Analyst, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Susan Sweet, court reporter, recorded the proceedings.

Frances Kamara, RN, Director of FAKS was present and testified.

CLOSED MEETING:

Ms. Oppenhagen moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 4:05 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Sesay. Additionally, Ms. Oppenhagen moved that Ms. Douglas, Ms. Rosen and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 4:20 P.M.

Ms. Oppenhagen moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Motion by Commonwealth for a continuance was granted.

ADJOURNMENT:

The Board adjourned at 4:34 PM.

Susan Bell Rosen, R.N., F.N.P., J.D.
Deputy Executive Director, Discipline